

**MINUTES OF THE  
CITY PLANNING COMMISSION  
J. MARTIN GRIESEL CONFERENCE ROOM  
May 6, 2005  
9:00AM**

**CALL TO ORDER**

Mr. Faux called the meeting to order at 9:10am

**Commission Members:**

***Present:*** Mr. Faux, Ms. Lemmie, Mr. Mooney, Mr. Paddock, and Mr. Tarbell

***Members Absent:*** Ms. McCray and Ms. Hankner

**Community Development and Planning Staff:**

Margaret Wuerstle, Renee Christon, Felix Bere, Steve Briggs, Katherine Keough-Jurs, Caroline Kellam, Larry Harris and Rodney Ringer.

**Law Department:**

Julia Carney

**APPROVAL OF MINUTES**

Submission of the minutes from the April 15, 2005 Planning Commission meeting for approval.

**Motion:** Mr. Mooney motioned to approve the minutes

**Second:** Ms. Lemmie

**Vote:** All ayes (5-0), motion carried

**CONSENT ITEMS**

A citizen was present to speak in opposition to Item #2 so the item was moved from Consent Items to Discussion Items.

**ITEM #1** A report and recommendation on a Plat of Subdivision, Record Plat, for the Rawson Farm Subdivision located west of Clifton Avenue, north of McAlpin Avenue and east of Middleton Avenue in the neighborhood of Clifton.

**ITEM #3** A report and recommendation on an ordinance authorizing a lease with the North Fairmount Community Center, Inc. for certain real property located at the northwest corner of Baltimore and Casper Avenues in North Fairmount.

**Motion:** Ms. Mooney motioned to approve consent item #1 and #3

**Second:** Ms. Lemmie

**Vote:** All ayes (5-0), motion carried

## **DISCUSSION ITEMS**

**ITEM #2** A report and recommendation on an emergency ordinance authorizing the sale of surplus City-owned property located at Center Hill Landfill in Winton Hills.

*Rodney Ringer, Senior City Planner, presented this item.*

### **BACKGROUND:**

The City of Cincinnati has agreed to sale 3.426 acres of City-owned land for \$1.00 to Water Quality Systems, Inc. (WQS), a full service Environmental Contractor. The property is located at the Center Hill Landfill site, which is now called the Ridgewood South Industrial Park. The Ridgewood South Industrial Park is an extension of the successful Ridgewood Industrial Park. The sale will include the maintenance and operation by WQS of the City's methane gas and leachate collection systems for the entire landfill. WQS will also construct an office building with adjacent parking and a heavy equipment storage yard on the property. In addition, WQS will relocate nine full time staff to the site and increase its staff to 20 full time employees within five years after initial occupancy of the office structure. WQS project that the construction will begin in the fall of 2005. The administration recommends that the sale be authorized.

### **RECOMMENDATION:**

The Department of Community Development and Planning staff recommends that the City Planning Commission approve the ordinance authorizing the City Manager to enter into and execute the sale of City-owned surplus property located at Center Hill Landfill in Winton Hills.

### **DISCUSSION**

Ms. Betty Gazaway who is a resident at 5284 Vivian Place in Winton Hills stated that she opposes the ordinance to authorize the City Manager to enter into and execute the sale of City-owned surplus property located at Center Hill Landfill in Winton Hills. She also indicated that she had never received any notices regarding this property or other properties in the neighborhood for hearings with the City Planning Commission. She commented that the residents are fighting against pollution and did not want more factories and chemical companies in Winton Hills. Ms. Gazaway was concerned about the methane level on the property. In response to Ms. Lemmie, Rodney Ringer, Senior City Planner stated that the new company would be responsible for monitoring the methane levels. Mr. Mooney inquired about the appearance of the property at this present time. Mr. Bill Fischer, Division Manager for DCDP stated that the city owns the 60 acres that was used as a landfill. The property is an ugly site that was fenced off and closed back in the 70s. WQS monitored the methane level for the city and expressed an interest in the site. The company is from Dayton and wanted to relocate to Cincinnati. The site would house their offices and eventually twenty office employees. Parking for the employees and light industrial equipment would be located on the property. There has been a decrease in the methane level since the incinerator was capped. Ms. Gazaway asked Mr. Fisher on which side of the property would the company be located. He stated that the company would be located behind the old incinerator. The City is hoping that the old incinerator can be demolished through the Clean Ohio Fund. Mr. Fisher informed

Ms. Gazaway and the Commission that the City had two separate meetings with the neighborhood before the City decided to sell the property.

**Mr. Tarbell arrives at 9:12 am**

Ms. Lemmie suggested that Ms. Gazaway leave her name and address with staff so that she would be contacted for meetings in her neighborhood.

**Motion:** Mr. Mooney motioned to approve this item stating that it would bring jobs to the community.

**Second:** Ms. Lemmie

**Vote:** All ayes (5-0), motion carried

**ITEM #4** A report and recommendation on a proposed text amendment to the Cincinnati Zoning Code to create a second RMX zone, with a 4,000 sq. ft minimum lot size, for certain neighborhoods where appropriate.

*Larry Harris, Senior City Planner presented item.*

**BACKGROUND:**

In February 2004, City Council conditionally adopted a newly rewritten Cincinnati Zoning Code. A condition for the adoption was to place an Interim Development Control (IDC) overlay district on two RMX districts created by the new Zoning Code, IDC #60 in the Hyde Park and IDC #58 in the North Avondale, to allow the planning staff to study the need for a text amendment to create a second RMX district to regulate development of large square foot parcels in the RMX districts. The IDC overlay districts were originally designated for one year from the date of adoption of the revised code. The City Planning Commission approved a six-month extension for the Hyde Park IDC #60 on January 7, 2005 and for the North Avondale IDC #58 on January 21, 2005. The extensions were granted to allow completion of the text amendment study by the staff. Both IDC extensions were approved by the City Council on February 9, 2005.

The staff held a public conference on February 22, 2005 to hear testimony on the proposed text amendment. The public was provided advanced notice of the date and time of the conference by regular mail. Three persons attended the conference, representing the North Avondale community. Staff did receive phone calls from a resident of Hyde Park and several emails were forwarded to the staff from Hyde Park residents. The majority opinion of the North Avondale and Hyde Park representatives was that development controls were needed for the larger parcels within the two RMX districts in question.

The staff conducted research to assess the number of properties converted from one to two-family or three-family and the number of two and three family residential structures recently built in the city. The research study covered a period from 1980 to the present year 2005. The purpose of the research was to determine the frequency of conversions and new construction in the city as a whole, to test the hypothesis that the current RMX district guidelines promote conversion and construction of incompatible high-density multi-family structures in existing low-density areas. This was the stated concern of most of the citizens seeking more the restrictive use regulations suggested for a second RMX large district. Two data sources were employed to determine the numbers for this research. The Hamilton County Auditor's real-estate records were used to compute the

new construction data. The methodology was to summarize the total number of parcels with the Auditor's land use code for two and three family and extract out those constructed during the period 1980 to 2005. The number of conversion of one-family units to two and three family units used data contained in the City's Permits Plus database. The database was queried for the total permits recorded for conversions during the period 2000 to 2005.

Staff also reviewed the existing text for the RMX district to evaluate the need for additional development controls. The review included all use classifications for the RMX and the regulations established for permitted development.

#### **FINDINGS:**

The findings of the research on construction of new two and three family structures indicates that a total of 43 two-family and three-family structures were construction during the period 1980 to 2005. The average number of structures built per year was 1.72. The most built in a single year was 11, which occurred in 1989 under a less restriction zoning code. During the period from 1994-1999, the data shows only one new structure built each year. There are no records of new two-family or three-family structures built since the adoption of the new code.

The findings of the research on conversions from 2000-2005 indicate that 19 units were converted from single-family to two or three family units. The average number of converted buildings being 3.8 per year. The research suggests that the incidents of the conversion of single-family property and the construction of new two and three family properties are low.

Review of the RMX district use classes and regulations found that limits are placed on multi-family development but not on single-family, rowhouse or two-family development. The lack of limitations facilitates high-density development when creating rowhouse projects. In addition, there is discrepancy in the minimum lot requirements for rowhouse and two-family. The rowhouse can be developed as two units but the minimum lot size requirement (2,500 s.f.) is greater than that for a two-family development (2,000 s.f.). A developer could classify their project as a two-family to gain the advantage while building rowhouses.

#### **CONCLUSION:**

All affected parties were notified by mail and invited to attend the public staff conference. The notices provided three methods of contact to the staff for information or to voice comments on the issue. Phone calls and emails were received and comments were recorded relative to the proposed text amendments. Based on input from the affected parties as well as staff research, the staff opinion is that a new RMX district with a 4,000 s.f. minimum lot size is not required to control development of large square foot parcels.

Staff does, however, feel that text amendments are necessary to simplify the regulations and balance the requirements for development. The RMX district should allow a mix of one, two and three family structures and should serve as a bridge between the SF and RM zoning districts. There is a need to better define the limits of development to maintain the one, two and three unit character of the RMX district. The RMX district should be adjusted to remove the minimum lot requirements discrepancies and to limit the density

of new development in the RMX district to a one, two and three family level. The recommendations of the staff are shown in the charts below in “**bold print**”, with the current guidelines are shown in “*italicized print*” and parenthesis “()”. The recommended changes are reflected in the “Use Regulations” and “Development Regulations” for the RMX district:

### Schedule 1405-05: Use Regulations - Residential Multi-family Districts

Permanent residential					
Use Classifications	RMX	RM-2.0	RM-1.2	RM-0.7	Additional Regulations
Single-family dwelling	P	P	P	P	See § 1403-11
<b>Attached single-family dwelling</b>	<b>L15 (P)</b>	P	P	P	See § 1403-11
<b>Rowhouse, single-family dwelling</b>	<b>L15 (P)</b>	P	P	P	
Two-family dwelling	P	P	P	P	
Multi-family dwelling	L3	P	P	P	

**L15 Attached single-family dwellings and Rowhouse single-family dwellings of four or more units requires conditional use approval.**

### Development Regulations - Residential Multi-family Districts

Building Form and Location	Lot Area (sq. ft.)	Lot Area/ Unit (sq. ft.)	Lot width (ft.)	Front Yard	Side Yard Min./Total	Rear Yard	Maximum Height (ft.)
RMX single-family	2,000	--	25	20	0/5	20	35
<b>RMX attached single-family</b>	<b>2,500 (2,000)</b>	--	25				
<b>RMX rowhouse exterior</b>	<b>2,500 (2,000)</b>	--	--	20	0/5	20	35
RMX rowhouse interior	2,000	--	--	20	0/0	20	35
<b>RMX two-family</b>	<b>5,000 (4,000)</b>	<b>2,500 (2,000)</b>	25	20	3/6	20	35
<b>RMX three-family</b>	<b>7,500 (6,000)</b>	<b>2,500 (2,000)</b>	25	20	3/6	20	35

#### RECOMMENDATION:

The staff of the City Planning Division recommends that the City Planning Commission approve the proposed text amendments for the RMX district in lieu of the creation of a text amendment to create a new RMX district with a 4,000 s.f. minimum lot size.

#### DISCUSSION

In response to a question by Mr. Paddock, Mr. Harris stated that a low number of converted buildings in a year's period was considered one to three buildings, anything five and above was considered high. Mr. Mooney questioned the demand for conversions, he stated that after driving around the areas between Hyde Park and Clifton, he noticed a number of **For Rent** signs in the neighborhoods, which suggested to him a large number of apartment vacancies. Mr. Mooney asked if there was a consensus of what the occupancy rates are for apartments compared to single-family homes.

Mr. Mooney pointed out that the new zoning code was written to encourage more single-family development and therefore home-ownership. He stated that he would like to see concrete evidence where people are out of control when it comes to converting SF homes

to multi-family. Mr. Harris stated that he was correct and his analysis did not show a huge number of conversions. However, the reality is that it could happen and the community is concerned. Mr. Mooney stated that he did not want to make it harder for single-family development.

Mr. Gary Wollenweber and Carl Uebelacker both spoke in favor of the staff's recommendation. They felt the proposed change would be good for the Hyde Park area. In their opinion, tweaking the RMX code as proposed freezes the district to what it is today and without changing the code, Mr. Uebelacker pointed out that if you take the six properties along Observatory west of Michigan Ave, you could build (16) single-family townhouses under the old code without a hearing. He felt that type of development and architecture was incompatible in this sensitive area adjacent to the business district. The proposed change in the code would mean the developer of more than (3) units would first have to have a public hearing.

Mr. Marvin Kraus stated that the RMX as proposed is still a problem for the Fred Shuttlesworth St area in IDC#58 because the average lot sizes is 4,000 sq ft. Mr. Faux and Mr. Mooney stated that because of the lot size on that street a rezoning study should be considered for changing IDC#58 to an SF-4 designation.

**Motion:** Mr. Mooney motioned to direct staff to conduct a zone change study for IDC#58.

**Second:** Ms. Lemmie

**Vote:** All ayes (5-0), motion carried

Mr. Mooney indicated that he was against the limitation that would require more than (4) four attached units to obtain a conditional use approval. Mr. Tarbell was in agreement with Mr. Mooney's statement.

**Motion:** Ms. Lemmie motioned to approve staff's recommendation on lot sizes only.

**Second:** Mr. Mooney

**Vote:** All ayes (5-0), motion carried

**Motion:** Ms. Lemmie motioned to approve the staff recommendation to require a conditional use approval for attached S dwellings and rowhouse SF dwellings of (4) four or more units.

**Second:** Mr. Paddock

**Vote:** Ayes (Lemmie, Paddock & Faux), No:(Mooney & Tarbell)  
motion carried (3-2)

Mr. Mooney pointed out that an L15 limitation already exists in §1405-05 use regulations for Residential Multi-family Districts and that the L15 limitation in this amendment needed to be changed to L16. Staff indicated that this change would be made in the Ordinance going to City Council.

Mr. Margaret A. Wuerstle, Chief Planner stated that the North Avondale parcels just approved by the Commission for a Zone Change Study are located in IDC#58. IDC#58

is going to expire August 13, 2005 if it is not extended. The Commission instructed Ms. Wuerstle to bring the IDC extension request to the next meeting.

**ITEM #5** A report and recommendation on a request for variances of the Cincinnati Zoning Code to permit the subdivision of land between 1761 Chase Avenue and 4153 Gordon Street in the Northside neighborhood.

*Steve Briggs, Sr. City Planner presented this item.*

**BACKGROUND:**

The property is located at the southwest corner of the intersection between Chase Avenue and Gordon Street in the SF - 2 Single-family District. The lot has 50 feet of frontage along Chase Avenue and 90 feet of frontage along Gordon Street. Both of the subject buildings share the same lot and each is a two-family residence. The two-family buildings exist non-conforming uses in the SF – 2 Single Family District. These buildings were built in the early 1890's. The property owner Leroy Owens wishes to subdivide the property into two (2) lots in order to facilitate separate financing and maintenance of the structures. By creating separate lots and granting variances for a new property line, each building would be more in compliance with the zoning code, which requires each building to be on its own parcel. The previous zoning was B-1 Neighborhood Business District Use from 1963 to 2004. That former zone district would have permitted a two-family residence on 5,000 square feet of land and required rear yard and lot area variances for the Chase Avenue property and lot area variance for the Gordon Street property.

**VARIANCES:**

To create a separate lot for each single-family building requires the following variances to the Zoning Code:

1761 Chase Avenue			
Section 1403-07	Rear Yard	Requires 20 feet	Provided 7.4 feet

4153 Gordon Street			
Section 1403-07	Lot Area	Requires 2,000 Sq. Ft.	Provided 1,750 Sq. Ft.

**CRITERIA:**

Sec. 700.3 of the Subdivision Regulations permits the City Planning Commission to grant Variances of the Zoning Code for a subdivision of a property containing two or more principal buildings provides that:

1. The subdivision does not create building sites for additional buildings.
  - This subdivision creates two lots, one for each building.
2. The buildings were constructed prior to February 13, 2004.
  - The buildings were constructed in the early 1890's.

3. The variances will not be detrimental to the public welfare or injurious to the interests of other property in the vicinity.
  - The relationship between the subject buildings and neighboring properties remain the same. The division of land creates the opportunity for the existing two-family buildings to have separate financing, be improved and maintained.

The adjacent property owners and the Northside Community Council were sent a notification of the variance request and a copy of the staff report.

**CONCLUSIONS:**

The application meets the criteria of Sec 700.3 of the Subdivision Regulations.

1. Approval of the variances provides a separate lot for each building.
2. The variances relate to the positioning of the subject buildings to one another and do not change their relationship to other adjacent properties.
3. The division of land creates the opportunity for separate financing, property improvement and maintenance.

**RECOMMENDATION:**

The staff of the Department of Community Development and Planning recommends that the City Planning Commission take the following action:

Grant the variances of Section 1403-07, Requirements of the Single Family (SF) 2 District of the Cincinnati Zoning Code as requested for the 1761 Chase Avenue and 4153 Gordon Street and approve the subdivision of land as proposed.

<b>Motion:</b>	Mr. Faux motioned to approve the staff recommendation
<b>Second:</b>	Ms. Lemmie
<b>Vote:</b>	All ayes (5-0), motion carried

**ITEM #6** A report and recommendation on Interim Development Control (IDC) District No. 61 – Erie Avenue within the Oakley Neighborhood.

*Mr. Felix Bere, Senior City Planner presented this item.*

**BACKGROUND:**

Interim Development Control District No. 61 established by Ordinance No. 0015-2004 on February 13, 2004 and extended for six months by City Council on February 13, 2005 will expire on August 13, 2005. The IDC District was established to temporarily control land use changes within this area while zoning or text amendment studies were in process. The Episcopal Retirement Homes (ERH) and Forest Hill Drive Association embarked on a development plan that was approved by William Langevin, Director of Buildings and Inspection in April 2004. Construction based on the development plan and in adherence to the agreement reached by the parties commenced in February 2005 and will be completed in October 2005. The ERH has obtained most if not all necessary approvals and permits for the plans and are proceeding with construction as agreed upon and hence the IDC is no longer needed beyond date of its expiration.



The Oakley Community Council (OCC) supports the IDC's expiration without further extensions.

**RECOMMENDATION:**

The Department of Community Development and Planning staff recommends that the City Planning Commission take the following actions:

Allow Interim Development Control District (IDC) No. 61 Erie Avenue, Oakley on the east side of Forest Hill Drive south of Erie Avenue in Oakley to expire without further action on August 13, 2005.

**Ms. Lemmie leaves meeting at 10:00am.**

**DISCUSSION**

Mr. Mooney suggested that no action needed to be taken. Ms. Wuerstle stated that she is building the record so if there are any questions regarding the expiration of the IDC the information would be documented and staff would not have to rely on memory.

**ITEM #7 :** A report and recommendation on a Plat of Subdivision for the Forest Hill Subdivision located at 10 Forest Hill Drive in the neighborhood of Oakley.

*Steve Briggs, Senior City Planner presented this item.*

**BACKGROUND:**

On April 1, 2005 Griffin-Fletcher, LLP submitted a Plat of Subdivision on behalf of Richard J. Bolan for the proposed subdivision. The subject property is part of Lot 7 of James M. Duncan's Subdivision. It is located at the southern terminus of Forest Hill Drive, a private street, and is situated approximately 215 south of Forest Hill Lane and 1,758 feet south of the intersection of Forest Hill Drive and Erie Avenue. The property is zoned SF-20, a single-family large-lot district requiring a minimum of 20,000 square feet (or .4591 acre) for newly created lots. A single-family residence is currently located

Under §410.1(d) of the Rules and Regulations of the City Planning Commission any person who wishes to establish a subdivision on a private street must submit a Certificate of Access along with the application for subdivision. This certificate shall consist of a letter from an attorney experienced in real estate matters certifying there is legal access to the property for subsequent owners and the street is open to emergency vehicles. In addition §410.1(d) states, in part, that subdivision by plat of lots fronting on an existing private street is permitted if the private right-of-way is a minimum of 21 feet wide with an 18 foot wide pavement constructed to meet requirements of the Cincinnati Fire Prevention Code.

The plat of subdivision illustrates the reconfiguration of the existing lot at 10 Forest Hill Drive into two lots, identified as "Lot 10" and "Lot 11". Lot 10 contains 1.0152 acres while Lot 11 includes 1.0685 acres and the existing single-family residence. Both lots have frontage on Forest Hill Drive. According to the submitted plat, Forest Hill Drive is a private street with an established width of 23 feet, thus meeting the requirements of §410.1(d). Harold L. Anness, Griffin-Fletcher, LLP, submitted a Certificate of Access to the Forest Hill Subdivision from Forest Hill Drive with the application for subdivision in

compliance with §410.11; this certificate verifies that Forest Hill Drive is open and accessible to current and subsequent property owners as well as emergency vehicles.

**RECOMMENDATION:**

The Department of Community Development & Planning staff recommends that the City Planning Commission approve the proposed Plat of Subdivision for the Forest Hill Subdivision finding that the plat conforms to the Subdivision Regulations and has the approval of all reviewing agencies.

**Motion:** Mr. Mooney motioned to approve the staff recommendation  
**Second:** Mr. Tarbell  
**Vote:** All ayes (4-0), motion carried

**ITEM #8** 1405-05-L7 Text Update

Use Classifications	RMX	RM-2.0	RM-1.2	RM-0.7	Additional Regulations
<b><i>Public and Semipublic Uses</i></b>					
Clubs and lodges	L5	L5	L5	L5	
Community service facilities	C	C	C	P	
Cultural institutions	C	C	C	P	
Parks and recreation facilities	P	P	P	P	
Public safety facilities	C	C	P	P	
Religious assembly	P	P	P	P	
Schools, public or private	P	P	P	P	
<b><i>Commercial Uses</i></b>					
Bed and breakfast inns	C	C	C	P	See § 1419-09
Business services	--	--	--	L6,7	
Food markets	--	L7	L7	L7	
Funeral and interment services	--	--	--	L6	
Loft dwelling units	--	L14	L14	L14	See § 1419-23
Medical services and clinics	--	--	--	L6,7	
Offices	--	--	--	L6,7	
Parking facilities	--	C	C	C	See Chapter 1425
Personal instructional services	--	--	--	L6,7	
Personal services	--	--	--	L6,7	
Recreation and entertainment					
Indoor or small-scale	--	--	--	L6,7	

### Schedule 1405-05: Use Regulations - Residential Multi-family Districts

Use Classifications	RMX	RM-2.0	RM-1.2	RM-0.7	Additional Regulations
<b>Residential Uses</b>					
Bed and breakfast home	P	P	P	P	See § 1419-09
Child day care home	L4	L4	L4	L4	
Group residential					
Congregate housing	--	--	P	P	
Convents and monasteries	P	P	P	P	
Fraternities, sororities, dormitories	--	--	C	P	
Patient family homes	--	--	P	P	
Rooming houses	--	--	--	L2	
Shared housing for the elderly	L1	L1	L1	L1	
Permanent residential					
Single-family dwelling	P	P	P	P	See § 1403-11
Attached single-family dwelling	P	P	P	P	See § 1403-11
Rowhouse, single-family dwelling	P	P	P	P	
Two-family dwelling	P	P	P	P	
Three-family dwelling	P	P	P	P	
Multi-family dwelling	L3	P	P	P	
Residential care facilities					
Assisted living	C	C	P	P	
Developmental disability dwelling	P	P	P	P	
Nursing home	C	C	P	P	
Special assistance shelter	--	--	--	C	
Transitional housing					
Programs 1-4	--	P	P	P	
Programs 5-6	--	--	--	--	

### ALTERNATIVE LANGUAGE

**REMOVE THE L7 LIMITATION FROM THE RM-2.0 AND THE RM-1.2 DISTRICTS FOR THE FOOD MARKETS USE CLASSIFICATION. ADD THE NEW LIMITATION L15 TO THE RM-2.0 AND THE RM-1.2 DISTRICTS FOR THE FOOD MARKET USE CLASSIFICATION.**

**L15 Permitted on the ground floor in multi-family buildings with a minimum of 50 dwelling units, occupying less than 1200 square feet or less and having a separate exterior entrance; structures with less than 50 dwelling units require a conditional use approval; food markets occupying more than 1200 square feet of space require a conditional use approval**

Reason: As currently written, the Code would allow existing or new single-family, and smaller multi-family structures such as two, three, and four unit structures, to convert a room or a unit to a commercial use. This is a concern especially for food markets in residential districts. Potentially a single family home could convert one room or a triplex could convert a unit to a food market.

The language in red above revises the version of this text amendment approved at the 4/15/05 meeting. The planning Commission (CPC) wanted to provide flexibility in the

number of units required in order for a food market to be permitted as an ancillary use in the RM-2.0, RM-1.2, and RM-07 zoning districts. At the 4/15/05 CPC meeting, it was thought that a variance could be requested for a food market in a multi-family structure having less than 50 dwelling units. However, §1445-04 specifically states that the variance procedures are intended to provide a means by which relief from dimensional standards can be sought. Accordingly, a variance cannot be sought for a food market in a multi-family structure having less than 50 dwelling units. This new language provides the flexibility desired by the CPC through the conditional use approval process.

## **DISCUSSION**

Ms. Wuerstle stated that when the Commission approved this text amendment it was very clear that the Commission wanted flexibility in this requirement for developments of less than (50) units. She stated that at the last meeting the Commission discussed the variance process for providing the flexibility. The purpose of this update is to notify the Commission that the flexibility needs to be provided through the conditional use process and not the variance process. Therefore, the language should be revised to require conditional use approval for structures of less than 50 units.

**Motion:** Mr. Mooney motioned to approve the language requiring conditional use approval for buildings with less than 50 dwelling units or food markets requiring more than 1200 sq ft.  
**Second:** Mr. Paddock  
**Vote:** All ayes (4-0), motion carried

**ITEM #9:** Report on the progress of the Sign Task Force formed to review § 1427. Sign Regulations of the City of Cincinnati Zoning Code, which went into effect on February 13, 2004.

*Skip Forwood, Urban Conservator, presented this item.*

## **BACKGROUND:**

The Sign Task Force has met nine times this year to review the Sign Regulations section of the Zoning Code. To date, it has agreed on fourteen changes to text, formula, charts and illustrations to address inconsistencies within the chapter and code and to resolve discrepancies with other city ordinances. The Task Force was scheduled to report to the Planning Commission this month.

Recent discussions have focused on the procedures for determining maximum sign area, particularly for multi-tenanted buildings. The Task Force has spent considerable time trying (unsuccessfully) to reach agreement on changes to § 1427-21. Maximum Total Sign Area, § 1427-25. Ground Sign Regulations, and § 1427-37. Sign Standards for the C Districts to address problems identified by both sign industry representatives and City reviewers.

Several members feel the present system is unnecessarily difficult, cumbersome, and totally unlike that of surrounding jurisdictions. They have identified § 1427-21 Maximum Total Sign Area as the source and proposed that that section be eliminated. Before

embarking on consideration of eliminating § 1427-21, the Task Force would like confirmation from the Commission that this is a path it is willing to consider.

Secondly, the recent directive from the Planning Commission to extend Task Force review to the sign portions Chapter 1411 Downtown Development Districts and City Ordinances 895 Outdoor Advertising Signs and 723 Street and Sidewalk Use Regulations will necessarily delay its report to the Commission. The Task Force requests that it be permitted to complete its review of § 1427 before considering these additional regulations, perhaps with additional members with specialized knowledge and interest.

**RECOMMENDATION:**

The Sign Task Force requests that the Planning Commission take the following actions:

Give the Sign Task Force direction on the consideration of eliminating § 1427-21 Maximum Total Sign Area,

Recognize that the deliberations of the Sign Task Force are proceeding and direct it to postpone consideration of additional regulations until its original mission is complete

Accept that the Sign Task Force final report scheduled for May 2005 will be delayed several months and reschedule its submission for the end of the year.

**Ms. Lemmie returned to meeting at 10:07 am.**

Mr. Forwood stated that the Task Force is having problems with sections #21, #25 and #37 which involves ground signs, the total number of signs on a building and signs in the (C) District. Mr. Mooney suggested reaching agreements in areas where they could and those items where agreement cannot be reached should be brought before the Commission.

Reggie Lyons stated that sign packet issues create a burden on staff and citizens because they require a great deal of research and site surveys. They also have many non-conforming situations.

The Commission directed Mr. Lyons to allow property owners requesting new signage to stay within the square footage of the signage previously approved, but not allow property owners to increase the square footage of the signage. Mr. Mooney stated that it was not the intent to require the existing storeowners to remove, previously approved signage. However, they also could not increase the square footage of the new signage.

Gerry Kraus representative of the North Avondale Community opposed the illumination of §1421-28 regarding the maximum total sign area for Strip Centers.

The Commission directed Mr. Forwood to finish with the Sign Chapter of the zoning code as quickly as possible and bring completed items as well as unresolved items to the Commission. The Commission will decide the issues unresolved by the Task Force. The Task Force can then work on the downtown signage regulations and the billboard regulations after the sign chapter of the zoning code is completed.

Mr. Tarbell asked about the billboard on Guerley Road and whether the community had any recourse. Staff stated that there is no recourse because the billboard met the regulations.

Ms. Lemmie stated that the committee should move quickly on the changes to the Sign Chapter and bring to Commission any completed items. The Planning Commission will decide the unresolved items.

Mr. Carl Uebelacker stated that his main concern is permits for signs that have been languishing for six months, then grandfathered in because they have been around for so long. He stated that Building and Inspections needs to enforce the codes, as they exist at this time, accept maximum limitations on buildings, and not hold off until the Sign Chapter is completed.

**ITEM #10** CPC Project Tracking Spreadsheet **No Action required.**

***ITEM #11 Holistic Rezone Study Request for 3804 Edwards Road***

**DISCUSSION**

Ms. Wuerstle explained that when the citywide zone text code was adopted the citizens were allowed to request a zoning study on their property for a year if they felt there was an error made in applying the new design. The year was over on February 13, 2005. The new cost for a Rezone Study is \$1,000.00. The owner of the property at 3804 Edwards Rd would like to have the zoning changed from SF to an OL district, so that he can operate his business at this location. He would like to have the cost of the study waived. Mr. Wuerstle does not feel that the zoning on this particular property was a mistake.

Mr. Daneman stated that he would like to operate his Holistic health business from this site. When he bought the property, he was told a conditional use approval would be required to operate his business at this site. With the new zoning code, the conditional use is no longer an option.

After discussion on waiving the \$1,000.00 fee, the Commission felt that there had been ample time for this property owner to submit his request, but he failed to do so.

**Motion:** Ms. Lemmie motion to oppose waiving the fee for this Zone Change Study.  
**Second:** Mr. Paddock  
**Vote:** All ayes (5-0), motion carried

**Ms. Lemmie left meeting at 10:44.**

***ITEM #12 Rezone Study Request for 2106-2110 Columbia Parkway***

Ms. Wuerstle explained that this was another request to waive the \$1,000.00 fee for a Zone Change. The zoning designation on the property located at 106-2110 Columbia Parkway was changed during the rewrite process and the property owner would like it changed back to the old zoning designation. However, he missed the deadline for requesting the Zone Change Study free of charge.

**Motion:** Mr. Mooney motioned to oppose waiving the fee for Zone Change Study  
**Second:** Mr. Paddock  
**Vote:** All ayes (4-0), motion carried

***ITEM #13 Correspondence from Gerry Kraus regarding Legal Opinion on R-O-W Zoning***

Ms. Kraus received a copy of the legal opinion of the City Law Dept regarding zoning of the public right-of-way. Ms. Wuerstle stated that the issue was before the Board at their last meeting however a copy of the opinion was given to Commission members only.

Ms. Hankner asked Ms. Wuerstle to have a copy of the legal opinion at the May 6, 2005 meeting. Ms. Kraus letter is attached.

Ms. Kraus stated that a citizen was operating a business from his truck on the street. She had asked the Police Dept to enforce the zoning code and the police said that they had received an opinion from the City saying that the Zoning Code did not apply to public right of way so no law was broken. The Zoning Code states that the code applies to all land in the City of Cincinnati.

Mr. Mooney said that he thought the Commission was regulating land uses on privately owned property. It was not the intent to include right of ways. There are separate laws that govern the streets. There are City Traffic Ordinances. He pointed out that even though the code says it applies to all land, it also says "to the extent allowed by law". The Law Department has indicated that there are other City Ordinances that regulate the R-O-W and that the Zoning Code does not supercede those other ordinances.

The Commission felt that City Council was the appropriate body to address Mrs. Kraus issue. Julia Carney stated that the Law Department is preparing a report. The Commission asked that the report also be sent to them.

***ITEM #14 Correspondence from Citizens for Protection of Ohio River Views***

The correspondence was received and filed. The Citizens for Protection of Ohio River Views will be placed on the Commissions interested parties email list to receive future agendas, which they will then be able to monitor.

**ADJOURN**

**Motion:** Mr. Mooney motioned to adjourn

**Second:** Mr. Paddock

**Vote:** All ayes (5-0), motion carried

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Margaret A. Wuerstle, AICP  
Chief Planner City Planning Commission  
Department of Community  
Development & Planning  
Date: \_\_\_\_\_

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Caleb Faux, Chair

Date: \_\_\_\_\_

